IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4095 OF 2005

Mr Manmohansingh Sawaisingh Ranavat & Anr. .. Petitioners
Vs
The Chief Officer -Mira Bhayander Municipal Corp and ors. .. Respondents

Mr S.D.Patil, for the petitioners.
Mr M.D.Angal, for respondent no.4.

CORAM : D.B.BHOSALE,J.
DATE : 29.08.2006

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the order dated 12.4.2005 by which the application under Order I, rule 10 of the Code of Civil Procedure filed by respondent no.4 for adding her as party defendant to the suit filed by the respondent-plaintiff for declaration and injunction, has been allowed. Mr Patil, learned counsel for the petitioners, submitted that respondent no.4 is not at all necessary party for deciding the suit in which no relief whatsoever is claimed against her and that she has no concern with the property on which the easementary right is claimed by the petitioner. In support of this contention, he placed reliance upon the judgment of this court in Jivanlal Damodardas Vs Narayan Ukha, 1972 Mh.L.J 64. I perused the impugned order,

copy of the plaint as also the application filed by respondent no.4 under Order I, rule 10(2)(4) of the Code. Respondent no.4 claims that the property bearing survey no.714/2 was originally owned by her father Baburao Dadoji Thakur and that she had filed the suit for declaration and possession against the predecessor of the present petitioner. According to respondent no.4, the petitioner has no right to claim any easement for enjoyment of said property (Survey no.714/02) as he has no concern with the same. Keeping that in view and for the reasons recorded in the impugned order, I see no reason to exercise the writ jurisdiction under Article 227 of the Constitution of India. Hence, the writ petition is dismissed.

(D.B.BHOSALE,J.)